

## APPEAL NO. 010808

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 16, 2001. The sole issue is the impairment rating (IR). The hearing officer found that the IR was 13%, as assessed by the designated doctor.

The appellant (claimant) appealed on the basis that the computation of the IR of 25% by the treating doctor, Dr. P, was correct, and that the designated doctor, Dr. B, misapplied a portion of the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association (AMA Guides). The respondent (carrier) seeks affirmance.

### DECISION

Affirmed.

The claimant suffered a fall on \_\_\_\_\_, by falling down steps while working for employer. She sustained an injury to her right knee and a sprain/strain to her lumbar spine. Dr. P stated that the arthritis in her right knee and degenerative disk problems were also from the injury. Dr. P assessed a total of 25% whole body impairment, calculated by assessing a 20% impairment from Table 36, Item 5 of the AMA Guides. He then noted a 7% impairment of the lumbar spine from Table 49, II(C), which, combined with his range of motion figure and the knee, gave a result of 25% whole body impairment. Dr. P's IR was contested and the Texas Workers' Compensation Commission appointed Dr. B as the designated doctor. Dr. B, in a Report of Medical Evaluation (TWCC-69) dated March 9, 2000, certified maximum medical improvement (MMI) and assessed a rating of 15% for the knee from Table 36, and 7% impairment from Section II(B) of Table 49 to assess the lumbar spine instead of using Section II(C), as had Dr. P. Dr. B gave a 0% impairment for neurological deficit. He rated the claimant as having 7% lumbar impairment plus 6% impairment of the knee, giving a whole body IR of 13%.

Dr. P disagreed with the designated doctor's knee assessment, believing that the knee should be rated at the highest level of severe damage (20%) from Table 36 of the AMA Guides which allows an impairment from 0 to 20%. Dr. B responded that he would not change the rating to 20% unless the claimant was to undergo knee replacement surgery under item 3 of Table 36. The difference of opinion on how great an impairment to assess for the knee constituted a difference in medical opinion.

It is well established that the designated doctor's report should not be rejected "absent a substantial basis to do so." Texas Workers' Compensation Commission Appeal No. 93039, decided March 1, 1993, and Texas Workers' Compensation Commission Appeal No. 962154, decided December 4, 1996. Our review of the decision and evidence in this case reveals only a difference in medical judgment between Dr. P and Dr. B and does not rise to the great weight of medical evidence to the contrary of the designated

doctor's report. Therefore, we affirm the decision of the hearing officer regarding the impairment rating.

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Robert W. Potts  
Appeals Judge